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BY CM/ECF

July 11, 2020

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The Honorable Leonard P. Stark
United States District Court
For the District of Delaware
844 King Street
Wilmington, Delaware 19801

Re: *Sunoco Partners Marketing & Terminals L.P. v. Powder Springs Logistics, LLC et al.*
C.A. No. 17-1390-LPS-CJB (D. Del.)

Dear Chief Judge Stark:

Defendants do not join Sunoco's request for continuance. In D.I. 580, the Defendants previously expressed their concern about having a fair trial with all witnesses testifying remotely. The Defendants expressed a desire to have most witnesses attend live with exceptions made for those who for medical reasons could not attend – a practice not unprecedented in this district when necessary. The Court, in its recent memorandum order, acknowledged, and appeared to reject, the Defendants' position. (D.I. 583 at 4).

In light of the Court's Order and given the uncertain duration of the pandemic, the Defendants balanced their concern about the nature of the trial with the length of any continuance. Specifically, if it were certain a short continuance of a month or so could lead to an in-person trial, the Defendants would support such a continuance. But that seems far from certain. At present, all Defendants can assume is that the Court will be conducting remote trials for the indefinite future. As a result, the Defendants prefer to proceed as soon as the Court believes it can safely conduct a jury trial.

This case has been pending a long time, the Defendants have spent considerable resources preparing for trial, Plaintiff continues to pursue appeals for the other related proceedings (IPR and USV trial), and the Defendants are prejudiced by not having resolution of this proceeding as well. Fundamentally, the Defendants would like to put this proceeding behind them. The parties are ready, and the case is ready for trial.

As previously stated, the Defendants' preference is to allow those witnesses who are able and willing to testify in person, to do so, and are confident the parties and the Court can ensure the comfort and safety of the jurors and Court staff in doing so. Consistent with that



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position, the Defendants preserve their objection to the Court's decision not allowing live appearances by witnesses willing to appear live. The Defendants also preserve their ability to join the motion for continuance if, after seeing the courtroom setup and understanding how trial will be conducted, the prejudice of having remote witnesses is amplified.

The Defendants communicated the above information to the Plaintiff prior to the submission of Plaintiff's letter, and told the Plaintiff they do not join the request.

The Defendants have no objection to an on-the-record discussion on Monday, but are also prepared with suggestions and discussion regarding the courtroom set up if proceeding as currently planned.

Respectfully submitted,

/s/ Douglas E. McCann

Douglas McCann (No. 3852)

cc: Counsel of Record – by CM/ECF and e-mail